IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION LD.NO.1277 OF 2005

The Lokmanya Co-op. Housing
Society Ltd. & Ors. ...Petitioners.

Vs.

State of Maharashtra & Ors. ...Respondents.

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Mr.Virendra Tulzapurkar with Mr.Madhav Jamdar for the Petitioners.

Mr.P.M.Palshikar, AGP for Respondent Nos.1 to 3.

Mr.V.M.Abhyankar for Respondent No.4.

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CORAM : DR.D.Y.CHANDRACHUD, J.

May 4, 2005.

P.C. :

Learned Advocate undertakes to get the petition numbered. Mentioned. Not on board. The Learned AGP on behalf of the Second and Third Respondents and Counsel appearing on behalf of the Fourth Respondent waive service. With the consent of Counsel and at their request, the matter was

taken on board for admission and disposal.

The short grievance of the Petitioners is that the impugned order of the Deputy Registrar, Co-operative Societies dated 20th April 2005 in purported exercise of power under Section 79(1) of the Maharashtra Co-operative Societies Act, 1960, has been issued in breach of the principles of natural justice. The record of the case shows that on 12th April 2005, the Deputy Registrar called upon the Petitioners to remain present for discussion on 19th April 2005. On 16th April 2005, the Petitioner addressed a letter to the Deputy Registrar stating that they had not been informed of the purpose of the discussion or the subject matter thereof. The impugned order has been passed on 20th April 2005 by which a direction has been issued that no work of construction of a lift or in implementing the project of the lift should be initiated by the Co-operative Society until certain lacunae were rectified. There is merit in the grievance of the Petitioners that the Petitioners should have been given an opportunity of meeting the allegation that there was any deficiency in the proposal which has been implemented by the Co-operative Society.

In these circumstances, all the Learned Counsel before the Court are agreed that the impugned order of the Deputy Registrar may be read and treated as a show cause notice. The Deputy Registrar shall furnish to the Petitioners, within a period of one week from today, a copy of the complaint filed by the Fourth Respondent on the basis of which he has initiated action. Upon receipt of the complaint and all the other connected papers, the Petitioners shall be at liberty to file a reply, if any, within two weeks thereafter. Parties shall appear before the Deputy Registrar for hearing on 6th June 2005 at 11 a.m. The Deputy Registrar shall dispose of the matter after furnishing the parties an opportunity of being heard. In order to facilitate the fresh disposal of the complaint, the operative directions contained in the impugned order dated 20th April 2005 are quashed and set aside and as directed hereinabove, the impugned communication shall be regarded as a notice to show cause. All rights and contentions of the petitioners are kept open. The Petition is accordingly disposed of.

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